



POLICE DEPARTMENT
Office of Deputy Commissioner,
Legal Matters
One Police Plaza, Room 1406A
New York, New York 10038
FOILAppeals@NYPD.org

April 30, 2019

Mackenzie Farkus
MuckRock News
71611-23244422@requests.muckrock.com

RE: FREEDOM OF INFORMATION LAW
REQUEST: FOIL-2019-056-06283
Re: NYPD Beekeepers

Dear Ms. Farkus:

This letter is in response to your letter dated April 24, 2019 appealing the determinations of the Records Access Officer (RAO) made on April 19, 2019 regarding records requested from the New York City Police Department. Your request, pursuant to the Freedom of Information Law, was originally received by the FOIL unit on April 11, 2019 and subsequently denied because the RAO was unable to locate any records responsive to your request based on the information provided.

First, to the extent that you seek “all materials on or related to the formation of the NYPD Beekeepers”, please note that while Public Officers Law Section 89(3) requires that a FOIL request describe the records it seeks in a manner that can reasonably lead to the retrieval of records maintained by the entity to which the request was directed; your request for “all materials” does not reasonably describe any actual records maintained by this agency.

In considering the requirement that records be “reasonably described”, the Court of Appeals has held that whether or the extent to which a request meets the standard may be dependent on the nature of an agency’s filing, indexing or records retrieval mechanisms [see *Konigsburg v. Coughlin*, 68 NY2d 245 (1986)]. When an agency has the ability to locate and identify records sought in conjunction with its filing, indexing and retrieval mechanisms, it was found that a request meets the requirement of reasonably describing the records, irrespective of the volume of the request. By stating, however, that an agency is not required to follow “a path not already trodden” (*id.*, 250) in its attempts to locate records, we believe that the Court determined, in essence, that agency officials are not required to search through the haystack for a needle, even if they know or surmise that the needle may be there. In short, agency staff are not required to engage in herculean or unreasonable efforts in locating records to accommodate a person seeking records. *See*, Committee on Open Government Advisory Opinion, FOI-AO-18949 (August 20, 2012).

Finally, in *Fisher & Fisher v. Davison* (Supreme Court, New York County, September 27, 1988), involving a request for “all records contained in several file cabinets”, the court referred to and rejected the voluminous request, finding that: “Petitioner’s actual demand transcends a normal or routine request by a taxpayer. It...bring[s] in its wake an enormous administrative burden that would interfere with the day-to-day operations of an already heavily burdened bureaucracy.” Your request, where it seeks “all materials on or related to...” and does not identify a specific record, would require this agency to search the contents of a “virtual” file cabinet and subsequently identify those portions of such records that are required to be made available; a task which would place an unreasonable burden on this agency.

You may seek judicial review of this determination by commencing an Article 78 proceeding within four months of the date of this decision.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jordan S. Mazur". The signature is fluid and cursive, with the first name "Jordan" being the most prominent part.

Jordan S. Mazur
Sergeant
Records Access Appeals Officer

c: Committee on Open Government